PUBLIC DOCUMENT

January 15, 2002

Gloria Blue
Executive Secretary
Trade Policy Staff Committee
Office of the United States Trade Representative
600 Seventeenth Street, N.W.
Washington, DC 20508

Re: **Public Comments on Potential Action Under Section 203 of the Trade Act of 1974 With Regards to Imports of Certain Steel:** ***Response Comments on What Action the President Should Take Under Section 203 of the Trade Act of 1974, as Amended, With Regard to Imports of Carbon and Alloy Welded Tubular Products and Carbon and Alloy Fittings***

Dear Ms. Blue:

Pursuant to the Notice of Request for Comments (66 Fed. Reg. 54321, October 26, 2001, modified 66 Fed. Reg. 59599, November 29, 2001 and 66 Fed. Reg. 67349, December 28, 2001) on behalf of The Committee on Pipe and Tube Imports; Allied Tube & Conduit Corporation; American Cast Iron Pipe Company, American Steel Pipe Division; Anvil International, Inc.; Bitrek Corporation, a division of Anvil International, Inc.; Capitol Manufacturing Company; Century Tube Corporation; Hannibal Industries, Inc.; IPSCO Tubulars Inc.; Leavitt Tube Company, Inc.; LTV Copperweld; Lone Star Steel Company; Maverick Tube Corporation; Newport Steel Corporation, a division of the NS Group; Northwest Pipe Company; Searing

Industries; Sharon Tube Company; Stupp Corporation; Tex-Tube Company; Vest Inc.; and Wheatland Tube Company, we hereby submit Response Comments on What Action the President Should Take Under Section 203 of the Trade Act of 1974, as Amended, With Regard to Imports of Carbon and Alloy Welded Tubular Products and Carbon and Alloy Fittings.

Should you have any questions regarding this submission, please do not hesitate to contact the undersigned.

Respectfully submitted,

Roger B. Schagrin
SCHAGRIN ASSOCIATES
1100 Fifteenth Street, N.W.
Suite 700
Washington, DC 20005
Telephone: (202) 223-1700
Facsimile: (202) 429-2522

-

Counsel for The Committee on Pipe and Tube Imports; Allied Tube & Conduit Corporation; American Cast Iron Pipe Company, American Steel Pipe Division; Anvil International, Inc.; Bitrek Corporation, a division of Anvil International, Inc.; Capitol Manufacturing Company; Century Tube Corporation; Hannibal Industries, Inc.; IPSCO Tubulars Inc.; Leavitt Tube Company, Inc.; LTV Copperweld; Lone Star Steel Company; Maverick Tube Corporation; Newport Steel Corporation, a division of the NS Group; Northwest Pipe Company; Searing Industries; Sharon Tube Company; Stupp Corporation; Tex-Tube Company; Vest Inc.; and Wheatland Tube Company

PUBLIC DOCUMENT

SUBMITTED TO
THE TRADE POLICY STAFF COMMITTEE
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

PUBLIC COMMENTS ON POTENTIAL ACTION UNDER SECTION 203 OF THE TRADE ACT OF 1974 WITH REGARDS TO IMPORTS OF CERTAIN STEEL

Response Comments on Actions the President Should Take Under Section 203 of the Trade Act of 1974, as Amended, with Regard to Imports of Carbon and Alloy Welded Tubular Products and Carbon and Alloy Fittings

Filed on Behalf of:

The Committee on Pipe and Tube Imports;
Allied Tube & Conduit Corporation;
American Steel Pipe Division of
American Cast Iron Pipe Company; Anvil
International, Inc.; Bitrek Corporation,
a Division of Anvil International, Inc.;
Capitol Manufacturing Company; Century
Tube Corporation; Hannibal Industries, Inc.;
IPSCO Tubulars, Inc.;
Leavitt Tube Company, Inc.; LTV Copperweld;
Lone Star Steel Company; Maverick Tube Corporation;
Newport Steel Corporation, a division of the
NS Group; Northwest Pipe Company;
Searing Industries; Sharon Tube Company;
Stupp Corporation; Tex-Tube Company;
Vest, Incorporated; and Wheatland Tube Company

By:

SCHAGRIN ASSOCIATES
1100 Fifteenth St., N.W.
Suite 700
Washington, DC 20005
Telephone: (202) 223-1700
Facsimile: (202) 429-2522

January 15, 2002

PUBLIC DOCUMENT

TABLE OF CONTENTS

EXECUTIVE SUMMARY

A tariff on all imports is the only potential remedy that will provide effective relief for the domestic industries producing welded carbon and alloy tubular products ("welded pipe") and carbon and alloy fittings. The anticipated increases in flat-rolled prices and declining growth in domestic demand for welded pipe and fittings are now realities in the U.S. market. These trends demonstrate the futility of attempting to implement a tariff-rate quota as a remedy for the realized and imminent serious injury to the domestic welded tubular products and fittings industries. As domestic welded pipe producers face increased costs for flat-rolled raw materials and intensifying competition from lower-priced imports, implementing a tariff-rate quota in an environment of declining demand will only cause increased negative effects on domestic industry shipments and pricing, resulting in further serious injury to these domestic industries. In sum, as the Commission majority acknowledged in its views on remedy but failed to address in its recommendations, the imposition of tariffs on flat-rolled products will compel a remedy that provides equivalent relief for the domestic industries producing welded pipe and fittings. The only remedy that will prevent further deterioration and possible elimination of these industries is an unqualified tariff, without quota exemptions, at rates comparable to the rates imposed on flat products.

An economic analysis of implementing the ITC recommendation of tariffs on hot-rolled and plate and a tariff-rate quota on pipe and tube shows the devastating financial losses that would result for the domestic industry. Plant closures and employee layoffs will follow. Statistics aside, executives from both the flat-rolled and pipe and tube industries have expressed agreement that a combination of tariffs on flat-rolled products and a tariff-rate quota on pipe and tubes would be injurious to the pipe and tube industry. These industries have a reasonable expectation that the remedy provided by this Administration, which itself requested the initiation of this investigation, will be *rational* in providing relief to the domestic industry, rather than harmful to its existence.

I. THE IMPOSITION OF RELIEF ON FLAT-ROLLED PRODUCTS COMPELS A REMEDY THAT PROVIDES EQUIVALENT RELIEF FOR THE DOMESTIC INDUSTRIES PRODUCING WELDED CARBON AND ALLOY TUBULAR PRODUCTS AND FITTINGS.

A. The Anticipated Increases in Flat-Rolled Prices and Declining Domestic Demand for Welded Tubular Products and Fittings Have Already Become Realities in the U.S. Market

The Commission majority observed in its remedy determinations that the price effects of relief for flat-rolled inputs would necessitate equivalent relief for the welded pipe industry. As the Commission reasoned, "We recognize that hot-rolled coil and plate are the primary inputs for welded pipe products and that imposing significantly different remedies on the two products could result in market disruption by encouraging product shifting."[1] Nevertheless, although the Commission recognized the disincentive that tariffs would impose on imports of hot-rolled and plate, it did not adequately address the burden of added costs that increasing domestic prices for these products would have on domestic pipe producers.

Price increases for both domestic plate and domestic hot-rolled steel have taken effect as imports have receded in anticipation of high tariffs being imposed. IPSCO and Nucor have

---

[1] *Steel*, USITC Pub. 3479, Inv. No. TA-201-73 (December 2001)("ITC Report") at 384.

implemented a price increase for plate of $20 per ton, effective January 1, 2002.[2] Furthermore, news reports indicate that, "[p]rices for hot-rolled steel have jumped 15 percent in the past 60 days."[3] These added costs for hot-rolled and plate for domestic pipe producers will not be shared by foreign welded pipe producers. A major industry trade publication has described the obvious consequences of the Commission majority's tariff-rate quota recommendation as follows:

> A 20% tariff on hot bands would equate to about $60 per ton. If this *ad valorem* were imposed then the domestic mill price would rise by that amount. This means the domestic pipe and tube producers would have their cost increased while the importers' cost remains unchanged. This 20 percent advantage to the importers would enable them to pay any tariff and still maintain their present profit margin.[4]

Thus, the price effects of the tariffs imposed on hot-rolled and plate imports would afford even more drastic cost and price advantages to importers of welded pipe and fittings, with disastrous implications for the domestic welded pipe and fittings industries.

B. Imports Can and Will Continue to Surge into Domestic Ports Despite the Possible Imposition of a Quota Limit on Tariff-Free Imports.

The Commission acknowledged in its views on remedy that foreign producers of welded pipe are likely to increase exports to the United States in the future. Not only have producers increased their dependence on exports to the United States in recent years, but they also maintain

---

[2] *See* "Ipsco Moves to Boost Prices for plate, coil," *American Metal Market*, Dec. 3, 2001; "Nucor joins $20/ton plate increase," *American Metal Market*, Dec. 12, 2001 at 12; *see also* "Bethlehem pushing hike on plate," *American Metal Market,* Dec. 19, 2001.

[3] *See, e.g.,* Matthews, Robert Guy, "U.S. Steel Mills Lift Key Domestic Prices and Will Seek More Increases Midyear," *The Wall Street Journal,* January 10, 2002.

[4] *See Preston Pipe & Tube Report*, Vol. 19, No. 12, at 3 (December 2001).

enough excess capacity to continue increasing exports in the future.[5] As the Commission recognized however, "Domestic producers estimate that demand in the second half of 2001 fell about 20 percent, that 2002 demand will likely be about 15 to 20 percent below 2000 levels, and that demand will not return to healthy levels approaching the 2000 level until 2003 or 2004."[6] Nevertheless, the Commission majority recommended a tariff-rate quota remedy that would allow imports to continue at 2000 levels without incurring *any* tariffs, despite the recognition that imports in 2000 had reached historically high levels.[7] Thus, under the Commission majority's recommendation, as U.S. demand declines in the next few years, imports will continue unimpeded at 2000 levels, and will hence seize even greater market shares and cause even further serious injury to the financial performance of the domestic industry.

II. A TARIFF-RATE QUOTA IN AN ENVIRONMENT OF DECLINING DEMAND WILL ONLY INTENSIFY THE NEGATIVE EFFECTS OF IMPORTS ON DOMESTIC INDUSTRY SHIPMENTS AND PRICING

The remedies proposed by Commissioners Koplan and Miller for welded tubular products would have negative impacts on all measures of performance in the domestic market. In the recession-driven environment of 2002, where apparent consumption is likely to decline by at least 5 percent from year 2000 levels, the Koplan, Miller remedy will result in sharp reductions in

---

[5] *See* ITC Report at 382 ("{F}oreign capacity and production are projected to rise in the near term, and there appears to be more than sufficient foreign capacity, used and unused, to sustain a high level of exports to the U.S. market.")

[6] ITC Report at 380.

[7] *See* ITC Report at 386 ("{O}ur proposed remedy for welded pipe products would still permit the same quantity of imports as in 2000 at the current low rate of duty. This amount exceeds the amount that entered in any previous year of the period of investigation.")

all measures of economic performance, including large, negative levels of operating income, net income before taxes and cash flows. This is in sharp contrast with 2000 performance levels, when domestic producers were marginally profitable. The most important factor driving these results is the higher prices for hot-rolled sheet that have already been realized in anticipation of remedy decisions in these cases.

The remedies proposed by Commissioners Bragg and Devaney, on the other hand, will have a much more significant, positive impact on the market for domestic producers. Average domestic prices, shipments and revenues will all increase, even in the depressed market of 2002. This remedy will also allow the market share of domestic producers to rise, according to COMPAS model estimates. Nevertheless, given the impact of input cost increases, economic performance of welded tubular producers will still suffer, earning only small positive margins on operating income and cash flow, and recording a slight loss in income before taxes. Once again, the most important factor behind the decline in performance is the higher cost of hot-rolled sheet.

A. A Tariff-Rate Quota Will Have Severe Negative Consequences for Domestic Industry Shipments and Pricing

The expected market impacts of the remedy proposals were estimated using the Commission's COMPAS model (see below for a discussions of the methodology and technical assumptions used).[8] This summary will present the results of the low-growth forecast, which

---

[8] The impacts of the proposed quotas on domestic and foreign producers were estimated using a version of the COMPAS model developed by the Commission's staff for use in section 201 cases. The model was used to estimate the impacts of the proposed remedies specified in Tables 1 and 2 in a number of different scenarios, making several different assumptions about the future rate of growth of demand for welded pipe and tube.

It was also assumed that all imports are included in the proposed remedies in each case, assumes that demand will fall by 5 percent in 2002, relative to market performance in 2000.[9] If the tariff-rate quota proposed by Commissioners Koplan and Miller is enacted, then the shipments of domestic firms will be 3.28 percent lower, domestic prices will be 1.14 percent lower, and total domestic revenues will be 4.28 percent lower than they actually were in 2000, as shown in Table 1.[10] The market share of domestic producers will rise only slightly from 62.2 percent to 62.9 percent if the tariff-rate quota is enacted.

If the 30 percent tariff proposed by Commissioners Bragg and Devaney is enacted, then the shipments of domestic firms will be 13.48 percent higher, domestic prices will be 3.06 percent higher, and total domestic revenues will be 16.96 percent higher than they actually were in 2000, as shown in Table 2. The market share of domestic producers will rise sharply from 62.2 percent to 78.9 percent if the tariff is put in place.

---

for consistency of treatment. Although shipments from Israel and the Andean Trade Preference Act countries (and the CBERA countries in a tariff-rate quota proposal) were excluded from the proposed remedies, it was assumed that these countries had such a small share of the domestic market in 2000 that their inclusion would have no significant impact on the COMPAS model estimates. A weighted average of transportation and tariff costs from all regions was calculated from the primary source data (*See* ITC Report at Table TUBULAR-C-4).

The impacts of quotas on Prices, Quantities and Revenues (in percentage terms) in the "low growth" simulation are reported in Tables 1 and 2. These tables report the average of eight different scenarios generated by the model in this simulation. The complete model results for all three simulations are reproduced in Appendices 1 and 2.

[9] COMPAS input assumptions and model results for the low, zero and high growth scenarios are presented in Appendices 1 and 2.

[10] The results discussed in this section are an average of 8 scenarios estimated using a "zero growth" simulation, as described in the methodology section below. These estimates use shipments, prices and revenues during calendar year 2000 as a base period.

B. A Tariff on All Imports Is the Only Potential Remedy That Will Provide Relief for the Domestic Industries Producing Welded Carbon and Alloy Tubular Products and Carbon and Alloy Fittings.

A simple pro-forma model of the expected financial performance of domestic producers in 2002 is developed in Tables 3 and 4. This model assumes that shipments and output change as estimated by the COMPAS analysis, as summarized in Tables 1 and 2, *supra*. The model assumes that hot-rolled prices increase by an average of 10 percent for the duration of 2002.[11] Tables 3 and 4 also assume that apparent consumption of steel falls 5 percent in 2002, and that all other cost elements (selling, general and administrative, interest, depreciation and miscellaneous items) are unchanged.

Under a tariff-rate quota, net commercial sales will fall by 4.4 percent.[12] The costs of goods sold will increase by 5.3 percent, as a result of the higher costs of hot-rolled sheet. As a result, operating income falls from $127 million in 2000 to a *loss* of $105 million in 2002 (estimated), a decline of 183 percent. Net income before taxes falls even more sharply, from $83 million to a *loss* of $150 million, a decline of 280 percent. Cash flow also declines from $167 million to *negative* $66 million. The measures of performance relative to net sales also decline sharply.

---

[11] This analysis assumes that all non-wage "costs of goods sold" increase by 10 percent. Purchases of hot-rolled sheet make up the vast majority of all non-wage input costs in the steel industry. It is also assumed that wage costs rise (or fall) with the expected level of output, as shown in Tables 3 and 4.

[12] *See* Table 3.

Under the 30 percent tariff recommended by Commissioners Bragg and Devaney, net commercial sales will *increase* by 17.0 percent.[13] The costs of goods sold will increase by 23.6 percent, as a result of output growth and the higher prices for hot-rolled sheet. As a result, operating income declines, but much less sharply, from $127 million in 2000 to $39 million in 2002, a decline of 69.2 percent. Net income before taxes falls more sharply, from $83 million to a *loss* of $4.9 million, a decline of 105.9 percent. Cash flow also declines from $167 million to $79 million (though still positive, as compared to the large, negative cash flows under the tariff-rate quota remedy). The measures of performance relative to net sales also decline accordingly.

I. THE EFFECTS OF IMPLEMENTING ANY REMEDY OTHER THAN A SIMPLE TARIFF WOULD BE DISASTROUS TO THE DOMESTIC INDUSTRY

As the Commission itself acknowledged, the implications failing to provide adequate relief for the domestic industry would be disastrous:

> In the absence of appropriate relief, we are convinced that the recent deterioration of the domestic welded pipe producers' market share, revenue, and profitability will continue. . . . Over the longer term, a significant portion of the industry would be forced to shut down. Our assessment is based on the recent surge in volume of imported welded pipe products, a surge which has reduced U.S. market share even during a period of increased demand. This surge has already led to several plant closings, which, in turn, have increased layoffs of workers in the industry.[14]

[13] *See* Table 4.

[14] *See* ITC Report at 386-387; *see also* ITC Report at 161 ("Two plants closed in 2000 and 2001. Laclede Steel Corp. closed its East Alton, Illinois, weld mill in 2000, and closed its remaining mill in Fairless Hills, Pennsylvania, in August 2001, when it announced that it was liquidating. According to one industry official, it was unlikely that wither mill would be purchased by another firm and reopened.").

Since the ITC's recommendations, additional company closings have occurred at both Vision Metals and Excaliber Tubulars.[15] The realized and imminent serious injury to the domestic welded pipe industry leaves no margin for error in fashioning an appropriate remedy recommendation.

The COMPAS results clearly demonstrate that the tariff proposed by Commissioners Bragg and Devaney will provide much more effective relief to the producers of welder tubular products other than OCTG than will the tariff-rate quotas proposed by Commissioners Koplan and Miller. One of the key reasons for the sharp differences in the likely outcomes of these two remedies is that the Bragg-Devaney remedy provides a similar level of relief (though still substantially smaller) to that recommended for hot-rolled producers. A tariff-rate quota proposal provides an almost negligible level of relief. The recommendations of the TPSC must take great care to avoid damaging down-stream steel producers by providing relatively high levels of relief to hot-rolled sheet, and little or no relief to users of hot-rolled steel in welded tubular products.

I. THE TPSC SHOULD CONSIDER THE PLAIN LANGUAGE OF ARTICLE 9.1 OF THE WTO SAFEGUARDS AGREEMENT IN CONSIDERING THE APPLICABILITY OF ITS REMEDY RECOMMENDATIONS TO DEVELOPING COUNTRIES

In commenting to the President on the applicability of its remedy recommendations to developing countries under Article 9.1 of the Safeguards Agreement, the TPSC should note that, under the plain language of Article 9.1, the prohibition against applying safeguard measures only applies to developing countries under limited circumstances:

---

[15] *See, e.g.,* "Vision Metals said closing Texas mill; 500 facing layoff," *American Metal Market,* December 4, 2001, at 2; *and* "Excaliber Holdings set to close by end of year," *American Metal Market*, October 15, 2001, at 2.

> Article 9.1: Safeguard measures shall not be applied against a product originating in a developing country Member ***as long as*** its share of imports of the product concerned in the importing member does not exceed 3 percent, provided that developing country Members with less than 3 percent import share collectively account for not more than 9 per cent of total imports of the product concerned. (Emphasis added).

The *temporal* restrictions indicated by the phrase “as long as” in the language of Article 9.1 therefore suggest that implementation of a remedy would require ongoing monitoring during the period of any remedy to ensure that 1) at no time does the exclusion apply to any developing country if the total import share of all developing countries with less than 3 percent import share do not collectively comprise more than 9 percent of total imports of the product concerned; and 2) at no time is any developing country excluded from the remedy if its import share grows to exceed 3 percent of imports of the product concerned.

CONCLUSION

The domestic industries producing welded pipe and carbon and alloy fittings have been seriously injured by an influx of low-priced imports. In constructing a suitable and effective remedy to address the dire situation of these industries, it is imperative that the interrelationship between the flat-rolled and welded tubular products industries be considered. The Commission majority was not mindful of this, and consequently, their remedy recommendations for the two industries are not interrelated. As demonstrated through economic analysis, the tariff-rate quota remedy recommended by the Commission majority would only compound the problems the industry faces because of increased imports. Therefore, we respectfully request that the TPSC recommend that the President follow the recommendations of Commissioners Bragg and Devaney in imposing unqualified tariffs, at rates comparable to the rates imposed on flat products, on imports of welded pipe and carbon and alloy fittings in order to legitimately ensure intended recovery, adjustment, and, ultimately, the survival of these domestic industries.

Respectfully submitted,

Roger B. Schagrin
SCHAGRIN ASSOCIATES
1100 Fifteenth Street, N.W.
Suite 700
Washington, DC 20005
Telephone: (202) 223-1700
Facsimile: (202) 429-2522

Counsel for The Committee on Pipe and Tube Imports; Allied Tube & Conduit Corporation; American Cast Iron Pipe Company, American Steel Pipe Division; Anvil International, Inc.; Bitrek Corporation, a division of Anvil International, Inc.; Capitol Manufacturing Company; Century Tube Corporation; Hannibal Industries, Inc.; IPSCO Tubulars Inc.; Leavitt Tube Company, Inc.; LTV Copperweld; Lone Star Steel Company; Maverick Tube Corporation; Newport Steel Corporation, a division of the NS Group; Northwest Pipe Company; Searing Industries; Sharon Tube Company; Stupp Corporation; Tex-Tube Company; Vest Inc.; and Wheatland Tube Company